IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 1ST AUGUST 2006 / 10TH SRAVANA 1928

ST.Rev..No. 294 of 2004()

TA.620/2003 of COMMR.KERALA AGR.IT & STAT,TVM.
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REVISION PETITIONER/APPELLANT/ASSESSEE

M/S. HOTEL PANKAJ, M.G.ROAD,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.MUHAMED KUTTY
SRI.K.M.FIROZ

RESPONDENTS: RESPONDENT/REVENUE

THE STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.V.V. ASOKAN

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD 01/08/2006 ALONG WITH STRV 260/2004 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR &
K.M.JOSEPH, JJ.

S.T.Rev. NO. 294 & 260 OF 2004

Dated this the 1st day of August, 2006

JUDGMENT

Ramachandran Nair,J.

The question raised is whether the petitioner, which is a Bar attached Hotel, is entitled to concessional rate of tax at four per cent on purchases of live chicken used in the preparation of cooked food for sale in the Hotel. The relevant notification under which concessional rate was claimed is SRO 1091/99 which during the year of assessment contained a mistake in the entry which was later corrected by SRO 170 of 2004 dated 20.2.2004 produced as Annexure D in the ST Rev. The Tribunal rejected the claim on the ground that it has no powers to take into account the mistake in the notification. On going through entry 8 of the Fourth Schedule to SRO 1091/99, we find prior to amendment by SRO 170 of 2004, there was a patent mistake and from the Explanatory Note, we find mistake is conceded by the Government and notification is given retrospective effect from 1.1.2000. Therefore petitioner is entitled to concessional rate at four per cent on purchase

turnover of live chicken in the year 2000-01 under notification, SRO 1091/99 as amended vide SRO 170/04. Revisions on this issue are allowed revering the order of the Tribunal. Since the other issue of rate of tax on soda, cola, etc., is covered by the Full Bench decision of this Court in LAZARUS ALOSIUS V. STATE OF KERALA, (2005) 2 KLT 604 (FB), following the said decision, TRCs are dismissed on this issue.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M.JOSEPH)
Judge